UNIVERSITY OF
TORONTO
FACULTY OF LAW

MODERN POLITICAL TRIALS
(LAW 342H1S/HIS 1271)

Volume 2

Professor Michael R. Marrus

Winter 2009

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UNIVERSITY OF TORONTO

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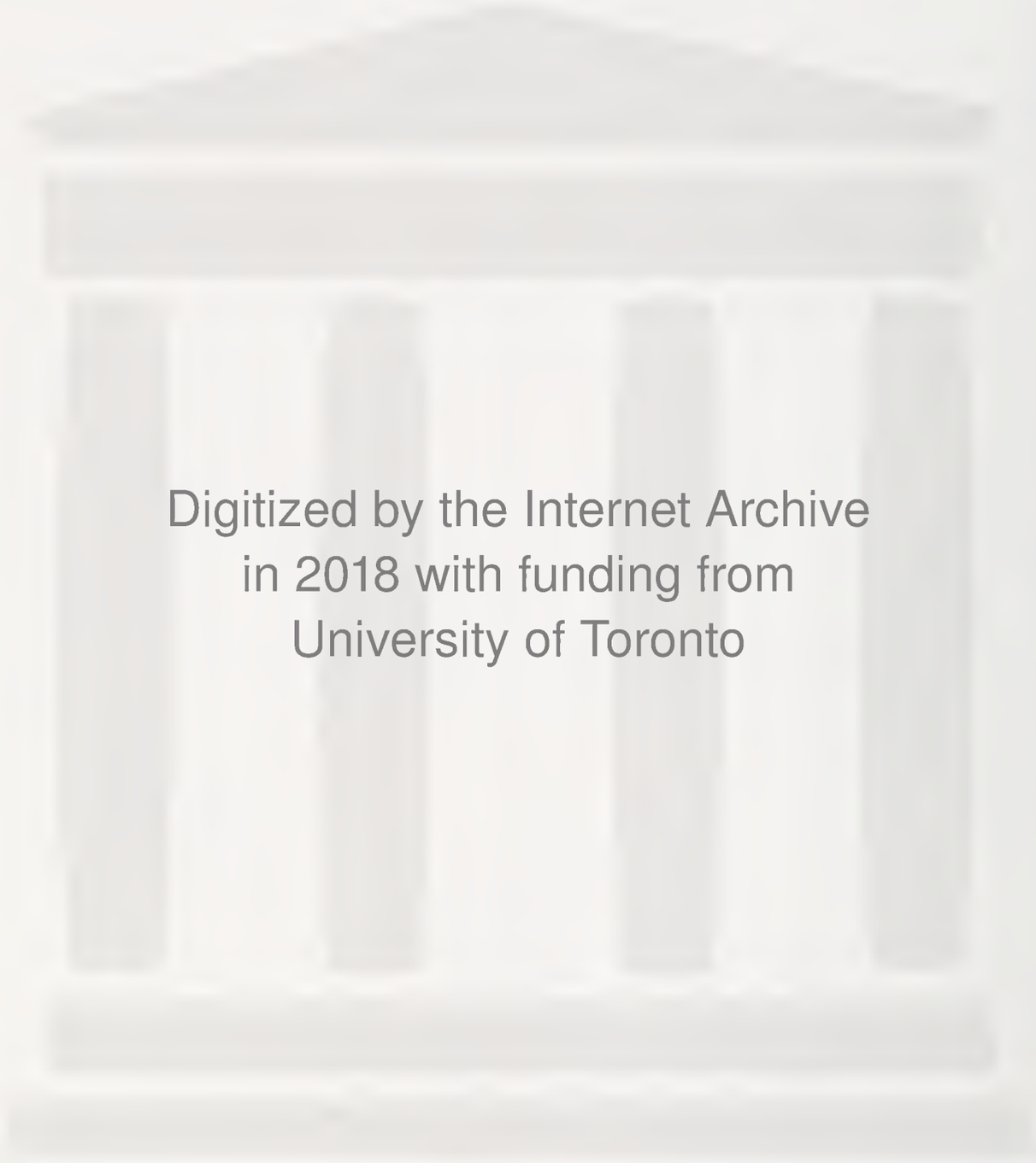
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UNIVERSITY OF TORONTO
Faculty of Law/Department of History

LAW 342H1S/HIS 1271
Modern Political Trials
Winter Term, 2009

Falconer Hall, Room 1 (FA 1)
84 Queen's Park

Thursdays: 10:30 a.m. to 12:20 p.m.

What are political trials? According to one recent definition, these are trials in which the outcome "depends on an evaluation of the defendant's political attitudes and activities." Among other things, this seminar course will test that definition, and begins with the hypothesis that there can be other sorts of political trials, in which courtroom arguments speak to issues of political importance in different societies. Many different circumstances, it should be come clear, can contribute to making trials political. To examine these propositions, we will look at European, North American and Israeli trials in the nineteenth and twentieth centuries. The approach will be interdisciplinary, and will draw upon legal, political, historical and social analyses of the various trials selected for the course.

This year's topics, together with the trials that highlight them, will be:

- Politics and Madness: Daniel McNaughtan and the Insanity Defense, 1843
- Treason: The Queen v. Louis Riel, 1885
- Homosexuality: The Trials of Oscar Wilde, 1895
- Terrorism: Dealing with the Assassinations of Simon Petlura, 1927 and King Alexander of Yugoslavia, 1934
- Show Trial: The Case of the Anti-Soviet Bloc of Rights and Trotskyites, 1938
- International Criminal Law: The Trial of the Major German War Criminals at Nuremberg, 1945-46
- Holocaust: The Attorney General of Israel v. Adolf Eichmann, 1962
- Atrocity: My Lai and the Trial of Lieutenant William Calley, 1970
- Crimes against Humanity: Touvier-Barbie-Papon, 1964-99
- Law and History: Irving v. Penguin, Limited & Deborah Lipstadt, 2000
- Transitional Justice: Saddam in Baghdad, 2006

Students should purchase the case book for this course, available in the Faculty of Law Bookstore:

Modern Political Trials: LAW 342H1S/HIS 1271 **(Faculty of Law, 2008)**

Students may also wish to consult the remarkable Web site "Famous Trials," by Professor Douglas Linder of the University of Missouri-Kansas City School of Law, for a wealth of material on "famous trials":
http://www.law.umkc.edu/faculty/projects/ftrials/ftrials.htm

Office Hours:

Tuesday and Friday, 9:00 to 10:00 a.m., or by appointment. My office is in Massey College, II-3. I can be most easily reached via email: michael.marrus@utoronto.ca or by telephone (416-946-0648).

Email:

While I will respond quickly to all appropriate email messages, these should be limited, for the most part, to communications regarding office appointments, specific reading assignments, etc. Questions that could be of interest to all students should be raised in class.

Course Requirements and Grade Distribution:

Essays: One short essay (1500 words) comparing two of the trials discussed in the course, due on **February 26**, and worth 15 percent; and one longer essay (7500 words), entitled "Reflections on Political Trials," drawing upon themes discussed in the course, due at noon on **April 30**, and worth 70 percent. *Please note: The deadline for the final submission of papers is fixed by the faculty and I cannot grant extensions beyond that point except in emergency situations and then through a university established process.*

Participation: 15 percent, based on attendance and class participation.

Academic Misconduct:

Students should know and understand the University's *Code of Behavior on Academic Matters*, particularly its sections dealing with plagiarism. For further information, please see http://www.utoronto.ca/govcncl/pap/policies/behaveac.html

SEMINAR	TOPIC AND ASSIGNED READING	
January 8	**Introduction**	
January 15	**Politics and Madness: Daniel McNaughtan and the Insanity Defense, 1843**	
	Richard Moran, *Knowing Right from Wrong: The Insanity Defense of Daniel McNaughtan* (New York: The Free Press, 1981), 1-6, 77-142.	1:1
	Supplementary:	
	Richard Moran, "The Modern Foundation for the Insanity Defense: The Cases of James Hadfield (1800) and Daniel McNaughtan (1843)," *Annals of the American Academy of Political and Social Science*, 477 (1985), 31-42.	1:39
	Joel Peter Eigen, "Lesion of the Will: Medical Resolve and Criminal Responsibility in Victorian Insanity Trials," *Law & Society Review*, 33 (1999), 425-59.	1:51
	Morris B. Hoffman and Stephen J. Morse, "The Insanity Defense Goes Back on Trial," *New York Times*, July 30, 2006.	1:87

See the useful Web sites on the trial and on the Iraqi Special Tribunal:

Library of Congress Law Library:
http://www.loc.gov/law/public/saddam/saddam_webr.html

"Grotian Moment: The Saddam Hussein Trial Blog," Case Western Reserve University School of Law, International Law Center
http://www.law.case.edu/saddamtrial/content.asp?id=9